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Annex "A," Subparagraph 2d,
Political Background

PUBLIC ORDER AND SAFETY

• 692 In a totalitarian regime, the employment of terror is a primary strategy by which "public order" is maintained and the consolidation of political power is assured. The Communist regime in the Southwest Region has not hesitated to pursue such a policy, employing it on an intensive scale which covers all spheres of activity. Such a policy is insured by the maintenance of rigid control over the populace and the employment of various means for the suppression of opposition. The judicial organ of government is conceived neither as an institution of justice nor as a protector of individual rights, but it is designed to serve as a weapon of the state for the suppression of all opposition, thereby "safeguarding the people's democratic system and protecting public property." Likewise, to insure observance of Communist law, "the local People's Procuratorate, although a "judicial organ," exercises procuratorial authority over all local state agencies, over government workers, and over all citizens in general. The procuratorates serve as instruments of control over the People's courts and public

692 security agencies, particularly since they have the power to supervise the People's courts in adjudication matters, the security agencies in investigation activities, and the execution of judgment in criminal cases. Both the police and public security agencies with their own security forces are instruments of violence. They assume direct responsibility for the maintenance of public order and constant vigilance over the entire populace. They are integrated systems, subject to the control of the Central People's Government and rigidly supervised by the Communist Party.

The use of terror is inherent in a dictatorship, where subordination to a single will is required. The imposition of a single will upon an entire society is certain to meet opposition; the more rapid and drastic the change, the stronger the resistance. To crush this resistance, terror and violence are employed. The Communist regime imposes upon society a new political ideology and its acts are calculated to destroy the old order while creating a new one. It is for this reason that violence and terror are widespread and their impact upon the entire society alarming. (The activities of resistance groups will be discussed in the chapter on Subversive Potentialities.)

I. PEOPLE'S COURTS AND PEOPLE'S PROCURATORATES

A. People's Courts

- 692 As political weapons of the state, the People's courts have actively engaged in the suppression of counterrevolutionary activities and maintenance of public order. The Supreme People's Court was established in November 1949, and a year later the Southwest China Branch Court was formed and given final authority in the region.¹ Local People's courts were formed at all levels, and mediation committee functioned in rural areas. The Municipal People's Court in Chungking handled 11,550 criminal and 7,635 civil cases in the first year of its operation.² Kweichow prosecuted 5,260 civil and 5,041 criminal cases in a period of nine months.³

1. Official report by Chuen-ju Shen, Jen-min Jih-pao [People's Daily], June 2, 1950, p. 1.

2. Report in Cheng-fu Kung-tso Pao-kao Hui-pien [Compendium of Government Reports of 1950], Peking, Jen-min ch'u-pan-she, 1951, pp. 1016-24.

3. Report of Tseng-ku Ch'en, ibid., pp. 1098-1112.

692 The courts, like other agencies of the state, underwent several stages in development; however, they followed dissimilar courses and their functions varied from time to time. For instance, during the first stage, prior to June 1952, the courts served as instruments of violence, carrying out with relentlessness the Land Reform Movement in the rural areas and the Three-Anti and Five-Anti campaigns in the cities. During the second stage, between June 1952 and the spring of 1953, the courts completed judicial reform that enabled them to legalize their authority, replacing that of the former courts. The reform affected Southwest China two months later than other regions and was not as vigorously carried out, chiefly because other regional projects demanded greater attention. During the third stage, from September 1954 to the present, the courts have consolidated their authority and have begun to function as judicial agencies in conformity with the Organic Law of the People's courts of the People's Republic of China.⁴

4. English text of the law is available in Current Background, Hong Kong, American Consulate-General, No. 303, Nov. 5, 1954, pp. 1-7.

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- 692 1. The First Stage. The distinguishing feature of judicial activities during this stage is the wide use of the People's tribunal in the land reform, and in Three-Anti and Five-Anti campaigns. This devotion to the administration of the criminal code in connection with the suppression of opposition made possible the concentration of judicial authority in the hands of Party functionaries and the complete subordination of judicial functions for political expediency.

The city and county governments were empowered by the Central Government to organize People's tribunals for land reform. People's tribunals were established in every two or three ch'ü and were given sole authority in dealing with criminal matters, including the authority to impose sentences of not more than five years' imprisonment. They also have the authority to prosecute counter-revolutionaries and to initiate arrests. The political character of the tribunal can be detected by the composition of the adjudication committee, composed of a president, a deputy, and several judges, half of whom were to be appointed by the People's government and the rest "elected" by the People's representatives

692 from public security, the Peasants' Association, and other mass organizations. Specifically, the county head in some cases and the ch'u head in all cases were the presidents of the tribunals.

A directive issued by the Southwest China Military and Political Committee in December 1951 offered specific regional instructions.⁵ Tribunal personnel, drawn from those showing strong class consciousness, were to be trained by provincial and county governments. County governments were to hold training courses, and provincial governments were to supply instructors and instruction materials. Government authorities claimed that by September 1950 People's tribunals were functioning in all key areas of Southwest China.⁶

5. Hsin-hua Jih-pao [New China Daily], Chungking, Dec. 24, 1951, p. 2.

6. Report of Tan Mou-hsing, head of the Department of Justice of the Southwest China Military and Political Committee, ibid., Nov. 24, 1951, p. 2.

692 The operation of these tribunals relied
695 heavily on mass hysteria and mob hatred. The administration of the trials by Party functionaries insured the use of terror. When cases were heard, the judges of the People's tribunals bombarded the masses with propaganda. The masses were sufficiently agitated to denounce as reactionaries those whom the Party had previously singled out for prosecution. After mass emotion was aroused and denunciations were made, judgment was passed by the masses and sentence rendered at the instigation of the adjudication committee controlled by the Party. Such a mass trial could not avoid intimidation and violence toward the accused.

During the Three-Anti and Five-Anti campaigns, People's tribunals were established by the directives of the Government Administration Council.⁷ Members of the committee were activists representing various Party-controlled organizations. These tribunals were empowered to mete out death sentences.

7. Directives on the Three-Anti tribunal in People's Daily, March 31, 1952, p. 1; on the Five-Anti tribunal, ibid., March 25, 1952, p. 1.

- 692 The effective use of People's tribunals as weapons of force was introduced after the judicial reform.⁸ During the nationwide elections in 1953-54, People's tribunals were again widely used. Their main function was to suppress and punish violators and unqualified candidates and voters, including those citizens accused of counterrevolutionary activity. These tribunals worked in co-ordination with the election committees at all levels.

2. The Second Stage. The Judicial Reform Campaign was a mass movement aimed at eliminating judicial personnel previously serving with the Nationalist Government.⁹ Exaggerated accounts of corruption and practices detrimental to the state were publicized. Mass meetings were held to identify, accuse, and pass judgment upon the accused workers. A large percentage of the old-established personnel was affected. For example, in the city of Chungking about 50 per cent of the total personnel in the Municipal People's Court had served under the

8. For functions of the election tribunal, see People's Daily, Feb. 7, 1954, p. 3.

9. For reports on campaign conducted in Chungking, see New China Daily, Aug. 29, 1952, p. 1, and ibid., Sept. 19, 1952, p. 3.

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692 Nationalist Government; some 60 per cent were charged with corruption.¹⁰

Mediation committees were set up to deal with local disputes and disseminate government propaganda. The active participation by the public security sub-stations in the cities and the hsiang governments in the rural areas indicates the political nature of the mediation.¹¹

692 In regard to the elimination of old judicial
695 practices, the Communists attacked the old system on four counts:¹² (a) that the judiciary was a weapon employed by one class for the suppression of the opposing class; (b) that the exceedingly mechanical procedure of the old courts should be condemned as a bourgeois practice; (c) that the assumption of a purely legalistic approach to a case that does not reflect the economic and social relationship of the society was contrary to the socialist view of law; and (d) that the use of precedents for adjudication of a case should also be discarded as a bourgeois practice.

10. Ibid., Sept. 27, 1952, p. 1.

11. Report on the conclusion of the campaign in this region, ibid., Dec. 14, 1952, p. 1.

12. Yangtze Daily, Feb. 18, 1951, p. 3, and Li Kuang-ts'an, "P'i-p'ing Jen-min Fa-lü Ti Chiu-fa Kuan-tien" ["Criticizing the People's Law from the Old Jurisprudential Viewpoint"], Hsüeh-hsi [Study], No. 7, Oct. 1, 1952, pp. 16-19.

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692 To stress the development of a new
695 judicial system, the Communists introduced several innovations: (a) the simplification of jurisdiction, the reduction of appellant cases, and the concentration of judicial authority in the lower courts; (b) the adoption of adjudication committees and the administration of law by collegia; (c) the review and periodic check of non-appellant cases by the higher courts and the practice in the lower courts of seeking instructions from and reporting to the higher courts; (d) the conduct of circuit hearings; (e) the use of People's assessors, a system similar to the Western jury system, which includes representatives from various People's organizations; (f) the use of trials for cases involving disputes among Party members and workers in factories, offices, and enterprises; and (g) such new techniques as oral inquiries and on-the-spot investigations and the establishment of People's reception rooms and mediation committees as means of enlisting mass support as well as for the intimidation of the masses.

692 3. The Third Stage. After judicial reform, further effort was concentrated upon the establishment of the new system and the training of new cadre to fill the vacancies which resulted from large-scale liquidation of

692 the former workers. In 1953, as a result of the second session of the All-China Judicial Conference, a directive was issued calling for the immediate training of 200 to 500 judicial workers and for the drafting of a training plan in each region.¹³ Effort was made to strengthen judicial authority at the lower levels and to set up special courts in industrial and mining centers as well as courts with jurisdiction over railways and waterways. As of September 1954, only eight railway courts and one waterway court had been established in the entire nation.¹⁴

"Comrade trial courts" were established in factories. Members of these courts were activists of the trade unions, and their tactics were similar to those of the mediation committeemen. Their jurisdiction was limited to disciplinary cases, and they were to recommend suitable punishments. As of June 1954, 70 comrade trial courts had been reported in major cities of the nation.¹⁵

The new judicial system was made permanent by the Organic Law of the People's Court of the People's Republic of China, which

13. People's Daily, Sept. 10, 1953, p. 1.

14. Ibid., Sept. 4, 1954.

15. Ibid., June 5, 1954, p. 3.

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692 was promulgated at the First Session of the National People's Congress.¹⁶ The law also formalized the relationships among the various courts.

B. People's Procuratorate

The People's Procuratorate is called a "judicial organ" but is, in effect, a prosecuting agency exercising control over both People's courts and public security agencies. It is in itself a centralized system. Powers exercised by the local offices include the supervision of decisions, orders, and measures of local state agencies, inquiry into criminal activities, supervision of the work of the People's courts, guidance in passing judgment on criminal cases and the activities of the agencies for "Reform-through-Labor," and the right to prosecute criminal cases or to join in the prosecution of important civil cases involving the interest of the State and the people.

Prior to 1954, the Supreme People's Procuratorate was represented in Southwest China by the Southwest China Branch.¹⁷ At the Second Session of the National People's Congress in July 1955, Chang Ting-ch'eng, the Supreme People's Procurator, announced

16. Text in Current Background, No. 303, Nov. 5, 1954, pp. 1-7.

17. Text, ibid., pp. 8-9.

692 the course of action for the People's procuratorates for 1955.¹⁸ He emphasized the suppression of counterrevolutionaries and the establishment of procuratorates in all transportation centers and in the armed forces. From September 1954 to July 1955 the number of People's procuratorates increased from 199 to 1,963.

II. PUBLIC SECURITY ORGANS AND POLICE

625 Perhaps the most powerful instrument of violence, with the exception of the armed forces, is the public security organ which exists in all government and functional organizations throughout China. It maintains close control over the entire populace and assumes the responsibility for arrests and punishment. Furthermore, it has at its disposal the public security forces, which are said to be efficiently staffed. There is no doubt that the public security agencies, by collaborating with other secret agencies of the Communist Party and the armed forces, have become the best physical and psychological instruments for the maintenance of public order.

18. People's Daily, July 24, 1955, p. 2.